

Title	Juvenile Law: De Facto Parent Status (adopt forms JV-295, JV-296, JV-297, and JV-298; approve form JV-299)
Summary	These forms would provide a statewide uniform process for present or previous custodians of a dependent child to request de facto parent status from the juvenile court. The “plain English” format is adapted from the juvenile adoption forms currently in use and is intended to assist self-represented persons.
Source	Family and Juvenile Law Advisory Committee Hon. Mary Ann Grilli and Hon. Michael Nash, Co-chairs
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Discussion	<p>There is currently no statewide uniform procedure or practice for individuals to request de facto parent status. Many individuals who request the status are not represented by counsel. The lack of a standardized process results in inefficiencies when judicial officers cannot readily ascertain the information needed to determine the appropriateness of granting the request.</p> <p>Rule 1401(a)(8) of the California Rules of Court defines a “de facto parent” as a person who is the current or recent caretaker of a child and who has been found by the court to have assumed, on a day-to-day basis, the role of a parent to the child, fulfilling both the child’s physical and psychological needs for care and affection. Rule 1412(e) allows the juvenile court to grant de facto parent status to those persons, thereby giving them standing to appear as parties in disposition hearings and any hearing thereafter at which the status of the dependent child is at issue. De facto parents may be present at hearings, may be represented by retained counsel or, at the discretion of the court, by appointed counsel, and may present evidence. Among the factors that courts have used to determine whether to grant de facto parent status are whether the child is psychologically bonded to the adult, whether the adult has assumed the role of a parent on a day-to-day basis for a substantial period of time, whether the adult possesses information about the child unique from that of other participants in the process, whether the adult has attended juvenile court hearings, and whether a future proceeding may result in an order permanently foreclosing any future contact with the adult. (<i>In re Patricia L.</i> (1992) 9 Cal.App.4th 61.)</p>

The form *De Facto Parent Request* (JV-295) would provide the court with the name, address, and telephone number of the person requesting de facto parent status. Welfare and Institutions Code section 308(a) requires that the address of any licensed foster family home in which the child has been placed remain confidential until the dispositional hearing, at which time the judge may authorize, upon a finding of good cause, the disclosure of the address. A foster parent may authorize the release of the address of the foster family home at any time. The form *De Facto Parent Statement* (JV-296) would provide the court with factual information regarding the nature of the relationship between the child and the adult seeking de facto parent status. The form *De Facto Parent Order* (JV-297) would provide a standard order form for use in granting, denying, or ordering a hearing on an adult's request for de facto parent status. The form *Order Ending De Facto Parent Status* (JV-298) would provide a standard order form for terminating an order of de facto parent status.

The *De Facto Parent Pamphlet* (JV-299) would provide potential de facto parents with basic information written in easy-to-understand language.

These standardized forms would enhance judicial efficiency by providing a standardized format for de facto parent status requests. The proposed revised forms are attached at pages 3–8.

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Attachments

*Clerk stamps below when form is filed.*

**The address of any licensed foster family home must remain confidential unless the judge or the foster parent authorizes release of the address. Do not send this page to the parties absent a court order or authorization of the foster parent. (Welf. & Inst. Code, § 308a))**

**1** My name: \_\_\_\_\_

My address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

My phone #: (\_\_\_\_\_) \_\_\_\_\_

**2** I am asking that :

☐ I be appointed de facto parent.

☐ (Name) \_\_\_\_\_ be the appointed de facto parent:

His or her address : \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

His or her phone #: (\_\_\_\_\_) \_\_\_\_\_

*Court name and street address:*

**Superior Court of California, County of**

**Case Number:**

Date: \_\_\_\_\_  
Type or print your name



Signature of person requesting de facto parent status

ffl

ffl

Date: \_\_\_\_\_  
Type or print attorney's name



Signature of Attorney (if applicable)

ffl

ffl

*Clerk stamps below when form is filed.***Order Ending De Facto Parent Status**

The court finds that the child welfare agency has shown changed circumstances that no longer support the de facto parent status and hereby terminates the de facto parent status of:

(Name) \_\_\_\_\_

Date: \_\_\_\_\_



\_\_\_\_\_  
*Judge (or Judicial Officer)*

ffl

*Court name and street address:*

**Superior Court of California, County of**

**Case Number:**

fff

**This is a Court Order.**

Clerk stamps below when form is filed.

COURT WILL FILL OUT SECTION BELOW

The judge, after reading and reviewing the *De Facto Parent Request* and the *De Facto Parent Statement*, orders:

1. ☐ The request for de facto parent status is approved.
2. ☐ The request for de facto parent status is denied.
3. ☐ The judge orders a hearing on the request for de facto parent status. The hearing will take place on \_\_\_\_\_ at \_\_\_\_\_ a.m /p.m in Department: \_\_\_\_\_ of the Superior Court located at \_\_\_\_\_.

Court name and street address:

Superior Court of California, County of

Case Number:

ffl

Date: \_\_\_\_\_



Judge (or Judicial Officer)

ffl

**This is a Court Order.**



Clerk stamps below when form is filed.

Court name and street address:

Superior Court of California, County of

Case Number:

d. I ☐ have or ☐ have not attended court hearings or sent a written report to the court about the child.

e. I ☐ do ☐ do not want to remain involved in the child's life.

1 My name: \_\_\_\_\_

2 Relationship to child (grandparent, foster parents, etc.): \_\_\_\_\_

3 The child has lived with me from:  
(date) \_\_\_\_\_ to (date) \_\_\_\_\_

4 I have had responsibility for the day-to-day care of the child from:  
(date) \_\_\_\_\_ to (date) \_\_\_\_\_

5 Information the judge should know about my relationship with the child. (This part must be completed).

a. Amount of time I spend with the child (daily, weekly, etc.): \_\_\_\_\_

b. Activities I do with the child: \_\_\_\_\_

c. Kinds of information I have about the child that others might not have (medical, educational, behavioral, etc.): \_\_\_\_\_

6 If the judge finds that I am a de facto parent, I ☐ will ☐ will not request that the judge appoint a lawyer to represent me in court.

7 I declare under penalty of perjury under the laws of the State of California that the information on this form is true and correct to my knowledge, which means if I lie on this form, I am guilty of a crime.

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Date: \_\_\_\_\_

Type or print your name



Signature of person requesting de facto parent status

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## De Facto Parent Pamphlet

You have been taking care of a child who has been declared a dependent of the juvenile court. You want to be more involved in the child's court case and are considering becoming a de facto parent. This pamphlet describes:

- What your rights are if the juvenile court decides you are a de facto parent
- What is a de facto parent
- How to apply to the juvenile court to see if you are a de facto parent and
- How the juvenile court decides if you are a de facto parent.

If you want additional information or have specific questions, you may want to consult with an attorney. Call your local Bar Association to ask for a referral.

### **What are my rights as a de facto parent?**

You have the following rights if a juvenile court judge finds that you are a de facto parent:

- To be present at dependency proceedings (Note: as a caregiver you can go to all dependency review hearings even if you are not a de facto parent.)
- To be represented by a lawyer and
- To present evidence and cross-examine witnesses.

You can learn more about these rights by reading rule 1413(e) in the California Rules of Court (available on the California Courts Web site: [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov).)

Remember: A de facto parent is not the same as a birth parent. You do not have the right to:

- Reunification services, custody, or visitation
- Attorney fees (sometimes the judge will give you an attorney, and the court will pay the fees)
- Rehearing (you cannot ask for another hearing if you don't agree with the judge's decision)

### **What is a "de facto parent"?**

You may be a de facto parent if:

- The child is a dependent of the juvenile court.
- You are or have been taking care of the child every day.
- You have been acting as the child's parent.
- You are meeting (or have met) the child's needs for food, shelter, and clothing. You have also met the child's needs for care and affection.

No law says exactly what a "de facto parent" needs to be. Judges make this decision based on other court cases and on rule 1401(a)(8) of the California Rules of Court. You can read the rule on the California Courts Web site: [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov).

### **How do I Apply for De Facto Parent Status?**

To apply, fill out the following forms: JV-295 and JV-296.

Form JV-295 asks for your name, address, and phone number. On the form, you tell the judge that you or someone else wants to be the child's de facto parent. If you are asking for someone else, you need to write that person's information on the form. Then you sign and date the form. If you have an attorney, he or she will sign the form too.

On form JV-296, you say why the judge should decide that you are a de facto parent. List important things you did for the child and how often you did them. This is so the judge has all the information he or she needs to make a decision. Give information like:

- How long you have cared for the child;
- What you do with the child;
- What you do for the child;
- How much you care for the child;
- What you know about the child's special needs, desires, hopes; and
- How you can meet the child's needs.

You can also attach letters from others who know you and the child. For example: teachers, therapists, pediatricians, spiritual advisors etc.

### **How Does the Juvenile Court Decide if I am a de facto parent?**

Only the juvenile court can decide if you are a de facto parent. The judge will consider other cases and rule 1401(a)(8). He or she will consider the care you gave the child and how long you did it. Also, the judge will decide if you can help the court understand what is best for the child—the child's best interests. If you have harmed the child or put the child at risk, then the judge will likely decide that you are not a de facto parent.

If the judge decides you are not a de facto parent, you may still tell the judge what you feel or know about the child by filing a motion under Welfare and Institutions Code section 388 or mailing the judge a letter with your information about the child.